

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Robert Banks

v.

Civil No. 09-cv-326-JD

Mark Hall, et al.

O R D E R

Robert Banks, who is incarcerated and proceeding pro se and in forma pauperis, sued New Hampshire State Troopers Mark Hall, Robert Lima, Dean Holston, Francesco Campo, Michael Cedrone, Gerard Ditolla, and Chad Lavoie, as well as the New Hampshire state treasurer and Kia, a police dog, alleging that the troopers used excessive force on him during his arrest. The defendants filed a motion on August 4, 2010, for leave to depose Banks on August 23, 2010, pursuant to Federal Rule of Civil Procedure 30(a)(2)(B). Banks did not respond to the motion.

An opposing party is allowed fourteen days to respond to a motion, with additional time allowed for service. LR 7.1(b); Fed. R. Civ. P. 6(d). Under the rules, the defendants' motion was not ripe until August 23, 2010, the day the deposition was scheduled. Therefore, the time scheduled for the deposition has passed, and presumably the deposition was not held. The defendants have not filed a new motion for leave or otherwise addressed the untimeliness of their motion.

Conclusion

For the foregoing reasons, the defendants' motion for leave to depose the plaintiff (document no. 28) is denied as moot, without prejudice to file a new motion for leave to depose the plaintiff.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

September 1, 2010

cc: Robert Banks, pro se
Kevin H. O'Neill, Esquire